

REMARKS

Favorable reconsideration of the present patent application is respectfully requested in view of the foregoing amendments and the following remarks.

In this Amendment claims 49-51 are added, and no claims are canceled or amended. As a result, claims 1-12, 19-29 and 34-51 are now pending in the application. Support for the newly added claims can be found throughout the disclosure, for example, in the first three paragraphs of page 12.

In the Office Action of September 27, 2007, claims 1-6, 19-29, 34-40 and 43-48 are rejected under 35 U.S.C. §102(e) in view of U.S. Patent 6,539,548 (Hendricks '548). Claims 7-12 and 41-42 are rejected under 35 U.S.C. §103(a) in view of Hendricks '548 further in view of U.S. Patent 5,734,589 (Kostreski).

*Theme-based versus Usage-based Favorite Channel Selection*

The pending claims define various features of managing favorite channels through the use of a *user specified theme* rather than usage-based (or frequency based) channel selection. The user-specified theme as claimed includes features not found in other methods of managing favorite channel lists.<sup>1</sup> A usage-based favorites list is created by having the system monitor the usage habits of the user in order to determine the frequency that the user tunes into certain programs. This is how both Hendricks '785 and Hendricks '548 operate. A frequency-based favorites list differs from a theme-based favorites list. For a theme-based favorites list the user specifies the type of events that the user wishes to include in the list and the system determines

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<sup>1</sup> See pages 11-12 of specification for discussions of a theme-based system and a usage-based system.

what channels are showing an event of that type and includes those channels on the theme-based favorites list. This may be done, for example, by allowing the user to select keywords to be used in a user specified theme. In this way the keywords of the user specified theme can be matched to the programming content descriptions of upcoming events.

*§102 Rejection in view of Hendricks '548*

The §102 rejection of claims 1-6, 19-29, 34-40 and 43-48 in view of the Hendricks '548 patent is respectfully traversed.

The pending claims define various features of managing favorite channels through the use of a *user specified theme* rather than usage-based (or frequency based) channel selection. The Office contends that the Hendricks '785 patent (incorporated by reference into the Hendricks '548 patent) discloses automatically adding each of the logical channels to the favorite channel list without user intervention. It is respectfully submitted that the Hendricks patents do not teach this feature. Hendricks '785 discusses systems of usage-based favorites lists. The Hendricks '785 patent also discusses a tool for conducting real-time searches (the “search tool”<sup>2</sup>). The search tool is a “responsive method of suggesting programs or channels” in which “program selections can be responsive to information gathered from inquiries” entered by the user.<sup>3</sup> However, the Hendricks '785 system does not add logical channels to a favorite channel list without user intervention. Rather, it is believed that the Hendricks '785 system *requires* user intervention for each search conducted by the search tool (which is why it is called a “responsive” method of suggesting programs/channels). Therefore, the Hendricks '548 patent—

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<sup>2</sup> Hendricks '785, col. 31, lines 52-55. See columns 29-31.

which incorporates by reference Hendricks '785 and various other patent documents—does not disclose “identify[ing] the logical channels showing an event of the user specified theme and automatically adds each of the logical channels to the favorite channel list without user intervention,” as recited in claim 1. Similarly, the Hendricks '548 patent does not disclose “wherein the computerized system identifies the logical channels by detecting a match of the predefined keywords of said user specified theme,” as recited in claim 8, or “automatically adding each one of the channels to a favorite channel list, wherein the favorite channel list comprises a plurality of logical channels and said adding does not require user intervention,” as recited in claim 19, or “automatically adding, without user intervention, each one of the channels in a favorite channel list comprising one or more logical channels,” as recited in claim 24. **In the event the pending rejection is maintained, it is respectfully requested that the next paper from the Office point to where the Hendricks patents are being construed to teach a search tool that adds channels to a favorites list rather than operating as “a *responsive* method of suggesting programs or channels.”<sup>4</sup>**

*Traversal of Inherency*

The Office Action contends that Hendricks '785 favorite channel lists inherently comprise one or more logical channels relating to a user-specified theme.<sup>5</sup> It is noted that the claim feature is actually a “means for identifying said one or more logical channels which relate to the user specified theme by detecting a match of the predefined keywords of said user

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<sup>3</sup> *Id.* at col. 29, lines 49-54.

<sup>4</sup> *Id.*

<sup>5</sup> Office Action of Sept. 27, 2007 at bottom of page 3.

specified theme, said identifying being based on programming constrained within a predetermined number of timeslots ahead of a current time,” as recited in claim 1. The favorite channel lists of Hendricks ‘785 are believed to be usage-based favorite channel lists. Hendricks ‘785 does discuss a search tool that is theme-based. However, as discussed above, the search tool of Hendricks ‘785 is not used to populate a favorite channel list, but rather is used as a responsive method of suggesting programs or channels.

Consequently, it is respectfully submitted that features of the recited “means for identifying” of claim 1 are not inherent in the Hendricks ‘785 patent. Therefore, withdrawal of the rejection is respectfully requested.

*§103 Rejection in view of Hendricks /Kostreski*

The §103 rejection of claims 7-12 and 41-42 in view of hypothetical combination of Hendricks ‘548 / Kostreski is respectfully traversed.

As discussed above in regard to the pending §102 rejection, the Hendricks ‘548 patent incorporates by reference Hendricks ‘785 which the Office relies on to purportedly teach discloses automatically adding each of the logical channels to the favorite channel list without user intervention. This contention is traversed above since the Hendricks’ *responsive* method of suggesting programs/channels seemingly requires user intervention. Regarding the secondarily cited Kostreski patent, it is respectfully submitted that this document fails to overcome the deficiencies of the Hendricks patents. Kostreski involves a digital entertainment terminal with channel mapping. The Kostreski system can control the formatting of different types of graphics displays overlaid on video programming for different services, can specify different definitions

for input keypad functions, can specify security procedures, and can enable operation of associated peripheral devices such as credit card readers. However, the Kostreski system does not produce a theme-based favorites lists based on a user specified theme, or teach or suggest the recited claim features discussed above. Hence, Kostreski does not overcome the deficiencies of the Hendricks patents.

Accordingly, it is respectfully submitted that Hendricks '548 and Kostreski, either taken singly or as a hypothetical combination, do not teach or suggest the features of the claimed invention. Therefore, withdrawal of these rejections is requested.

*Deposit Account Authorization / Provisional Time Extension Petition*

It is believed that the Fee Transmittal attends to the required fees, and the accompanying petition for a one-month extension of time is sufficient for this filing. However, to the extent necessary, a provisional petition for an extension of time under 37 C.F.R. §1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this, concurrent and future replies, including extension of time fees, to Deposit Account 50-0439 and please credit any excess fees to such deposit account.

**CONCLUSION**

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance. However, in the event there are any unresolved issues, the Examiner is kindly invited to contact applicant's representative, Scott Richardson, by telephone at (571)970-6835 so that such issues may be resolved as expeditiously as possible.

Respectfully submitted,



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